

quantity or quality of the discharge, the discharger shall file a written report with the Regional Board.

The record indicates that contracts for this project have been awarded, construction commenced about July 22, 1980, that the project is currently 50% completed, and that the treatment system is expected to be in operation by November 1, 1980.

#### REQUEST FOR STAY

Regulations of the State Board provide in part:

"(a) A stay of the effect of an action of a regional board shall be granted only if petitioner alleges facts and produces proof of

(1) substantial harm to petitioner or to the public interest if a stay is not granted,

(2) a lack of substantial harm to other interested persons and to the public interest if a stay is granted and

(3) substantial questions of fact or law regarding the disputed action.

A petition for a stay shall be supported by affidavit of a person or persons having knowledge of the facts alleged. Upon a documented showing by petitioner that he complies with the prerequisites for a stay, the state board will hold a hearing. A request for a stay may be denied without a hearing. If a hearing is held, notice shall be given in such manner and to such persons, in addition to the petition, as the board deems appropriate."<sup>1/</sup>

The petitioner seeks a stay of Order No. 80-35 and is supported by the sworn declaration of Samuel A. Milliken. While substantial questions of law and fact exist that will be resolved by a subsequent order of this Board, the Petitioner only states general conclusions in his declaration regarding substantial harm to the Petitioner or the public interest. More significant, however, is the Petitioner's failure to show lack of substantial harm to other

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<sup>1/</sup> Section 2053(a), Subchapter 6, Chapter 3, Title 23, California Administrative Code.

interested persons and to the public if the stay is granted. In fact, the record indicates that the granting of a stay at this time probably would cause substantial harm to the discharger and the public in view of the status of construction of this project. It should be noted that the Request for Stay was filed 3 months after the filing of the petition.

CONCLUSIONS

The Petitioner has not produced documented proof that he complies with the prerequisites for a stay. The Request, therefore, must be denied. Although the facility for which Order No. 80-35 was adopted is substantially complete, this Board in a subsequent order will address the long-term issues raised in the petition.

ORDER

IT IS HEREBY ORDERED that the request for stay of Order No. 80-35 is denied.

DATED: November 20, 1980

/s/Carla M. Bard  
Carla M. Bard, Chairwoman

/s/William J. Miller  
William J. Miller, Vice-Chairman

A B S E N T  
L. L. Mitchell, Member

/s/Jill B. Dunlap  
Jill B. Dunlap, Member

A B S E N T  
Falih K. Aljibury, Member